

Message Text

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SUBJECT: CONGRESSIONAL REQUEST FOR INFORMATION ON
OPPORTUNITIES FOR U.S. CITIZENS TO ENGAGE IN
CUSTOMS BROKERAGE AND OCEAN AND AIR FREIGHT
FORWARDING IN CERTAIN COUNTRIES

REF: A. STATE A-5980, SEPT. 16, 1975 B. STATE 258268

1. OCEAN FREIGHT FORWARDING:

UNDER GERMAN LAW THERE IS NO DISTINCTION BETWEEN OCEAN
FREIGHT FORWARDERS, AND FREIGHT FORWARDERS GENERALLY.
NO LICENSE IS REQUIRED FOR EITHER GERMAN OR FOREIGN
FREIGHT FORWARDERS IN THE FRG. THERE HAD BEEN SOME
LIMITED GOVERNMENT CONTROL INSOFAR AS THE FEDERAL
MINISTER OF ECONOMICS, IN AGREEMENT WITH THE FEDERAL
MINISTER OF TRANSPORT FIXED CHARGES FOR CERTAIN SERVICES.
SINCE JULY 1975, HOWEVER, THESE CHARGES WERE FREED FROM
GOVERNMENT CONTROL AND ARE NOW MADE BY THE FORWARDERS
ASSOCIATIONS. IN GENERAL, THE PROVISIONS OF THE
COMMERCIAL CODE APPLY TO FORWARDING CONTRACTS. ACCORDING
TO THESE PROVISIONS THE FREIGHT FORWARDER IS ENTITLED TO
PERFORM THE DUTIES OF A CARRIER IN ADDITION TO THOSE OF
A FORWARDER. IN THIS CASE HE HAS THE RIGHTS AND OBLIGA-
TIONS OF A CARRIER AS WELL AND CAN DEMAND COMMISSION,
NORMAL FORWARDING COSTS AND THE CUSTOMARY RATE FOR THE
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CARRIAGE.

2. AIR FREIGHT FORWARDING:

THERE ARE NO SPECIAL PROCEDURES UNDER GERMAN AIR LAW REQUIRING THE LICENSING OF A FOREIGN FIRM PRIOR TO ENGAGING IN INTERNATIONAL AIR FREIGHT FORWARDING IN THE FRG. FOR THE PURPOSE OF ESTABLISHING A BRANCH OR AGENCY IN THE FRG, A FOREIGN FIRM MUST REGISTER IN THE COMMERCIAL REGISTER OF THE DISTRICT COURT IN THE AREA WHERE THE BRANCH IS TO BE LOCATED. REQUIREMENTS FOR THIS PROCEDURE ARE AVAILABLE THROUGH THE DEPARTMENT OF COMMERCE IN WASHINGTON.

3. SINCE THE BULK OF INTERNATIONAL AIR CARGO IS HANDLED THROUGH IATA AGENTS, A FOREIGN FIRM WOULD HAVE TO APPLY FOR DESIGNATION AS AN IATA AGENT IN THE FRG UNDER RESOLUTIONS 800/810 AND 811 THROUGH THE NATIONAL CARRIER, DEUTSCHE LUFTHANSA. IN THIS CONTEXT, IT MUST DEMONSTRATE THE ABILITY TO PRODUCE A CERTAIN AMOUNT OF BUSINESS, BOTH WITH RESPECT TO VOLUME AND VALUE. IN THE EVENT A FIRM CANNOT SATISFACTORILY QUALIFY UNDER IATA PROCEDURES, IT COULD STILL ENTER THE MARKET THROUGH A SUB-ARRANGEMENT WITH AN ALREADY ESTABLISHED AIR FREIGHT FORWARDER HOLDING AN IATA AGENCY APPOINTMENT. ITS COMMISSION FEES, HOWEVER, WOULD THEN NOT BE THE PREVAILING IATA RATE (PRESENTLY 7.5 PERCENT) BUT AN AMOUNT SUBJECT TO NEGOTIATION WITH THE IATA AGENT.

4. AMERICAN COMPANIES PREFER TO USE GERMAN FIRMS TO HANDLE THEIR IN COUNTRY FREIGHT FORWARDING. SO FAR AS EMBASSY AWARE THIS IS SIMPLY BECAUSE THEY FIND IT MORE CONVENIENT TO DO SO AND NOT BECAUSE THEY ARE BARRED OR HANDICAPPED BY ANY LEGAL OR EXTRA-LEGAL OBSTRUCTIONS TO SETTING UP THEIR OWN OPERATIONS HERE.
HILLENBRAND

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